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SUBJECT: NATIONAL ASSEMBLY GETS BUSY - PASSES NEW
ANTI-ORGANIZED CRIME, IMMIGRATION REFORM, AND ELECTORAL

REFORM BILLS

REF: SAN JOSE 692

¶1. (SBU) Summary: Costa Rica's National Assembly capped off an uncharacteristically productive month-and-a-half on August 11 by approving the final version of an Electoral Reform bill. This came after the Assembly passed a new Anti-Organized Crime bill in early July, and an Immigration Reform bill in early August (the Electoral and Immigration Reform bills were officially signed by President Oscar Arias on August 19). The reforms include much-needed changes to Costa Rican law, such as strengthening regulations against political corruption and narco-traffickers, changing some regulations on foreign residents, and extending further protections to trafficking in persons (TIP) victims and refugees. The effectiveness of these new laws remains to be seen and some, such as the immigration law, will not go into effect for another six months.

¶2. (SBU) While the last six weeks have been some of the most productive of the past three-and-a-half years on long-needed security reforms (not including the mammoth CAFTA laws passed last year), we do not expect this new-found efficiency to continue. All sides will soon shift their attention to the upcoming national election campaign, which officially begins in October, making further significant accomplishments difficult to achieve. End Summary.

ANTI-ORGANIZED CRIME BILL

¶3. (SBU) The Anti-Organized Crime bill, passed on July 2, was perhaps the most pressing of the three major pieces of legislation the Assembly recently approved. The new law establishes a legal definition of organized crime (a "structured group of two or more people," formed for the purpose of committing a "serious crime," i.e., one with a possible prison sentence of four years or more), lengthens the maximum period of preventive detention from 24 to 36 months, and establishes a statute of limitations of 10 years for cases involving organized crime. However, the new law does not make organized crime an aggravating factor in a case, or create enhanced sentencing guidelines for those convicted of activities involving organized crime.

¶4. (SBU) One of the centerpieces of the new law is the creation of a Police Information Platform (PIP), a central

database for all Costa Rican law enforcement agencies to share information. The law also revamps Costa Rica's electronic surveillance procedures, creating a Communications Investigation Center (CIC), through which all wiretapping operations will be run. A court order is required for wiretapping, and wiretaps are limited to twelve months, but can be extended for an additional twelve months. The bill specifically requires communications providers to cooperate in wiretapping investigations. Not addressed, but still needing revision is the requirement that only judges be allowed to listen to wiretaps. This is problematic as justices often have little time to dedicate to a case, and rarely know what information they are seeking. The CIC will address technical deficiencies, but certain legal problems, such as this requirement, remain.

¶5. (SBU) The organized crime law also outlines procedures governing the seizure of assets in organized crime-related cases. The law puts the Costa Rican Drug Institute in charge of administering the seized assets in most cases, and lays out how various agencies will divide up seized assets after forfeiture. Additionally, Interpol's offices have been moved into the bureaucratic structure of the Judicial Police (OIJ). This will align GOCR police entities more uniformly, give Interpol more resources and arrest authority, and give OIJ access to Interpol criminal data.

IMMIGRATION REFORM

¶6. (SBU) On August 4, the National Assembly unanimously approved a new Immigration law, which makes a number of

changes to Costa Rica's policies governing foreign residents.

The law also provides additional protections (and some much-needed reforms) to trafficking victims and refugees, and increases penalties for alien smuggling. Though it has already been passed, the new law will not go into effect for six months from the date it is published in the official government gazette, in order to give the Department of Immigration time to implement the required changes.

¶7. (SBU) The new law more tightly regulates the requirements put on foreign visitors to, and residents in, Costa Rica. Visitors will now be given the option of paying a \$100 fee to renew their 90-day visa (for another 90 days), while those who overstay their visa will be charged \$100 per month of overstay. The law also increases the financial requirements for foreign residents in Costa Rica on business, requiring that they make an income of at least \$2500 per month. Retired residents are required to show evidence of a monthly pension of at least \$1000 per month, and 'investors' must show that they've made an investment of over \$250K (which, in a change to previous law, can include hard assets such as the purchase of property). These changes will only apply to new applications for residency.

¶8. (SBU) Additionally, the new law requires immigrants applying for residency based upon a marriage to a Costa Rican to actually prove that the marriage exists. Marriage fraud is often committed in Costa Rica to obtain legal residency, or fight deportation or extradition proceedings. The new legislation tries to end or at least mitigate this practice, by giving Costa Rican authorities the legal ability to question the legitimacy of marriages in certain cases.

¶9. (SBU) The law creates a new migratory category for TIP victims, giving Immigration the ability to grant them temporary visas. The new legislation also sets out increased penalties for alien smuggling, setting the punishment at 2-6 years imprisonment, or in aggravated circumstances 3-8 years in prison.

¶10. (SBU) Finally, the new law creates a separate office within Immigration to deal specifically with refugee issues (Reftel). This includes the assignment of specific

immigration officials to the new office, who will be given specialized training in refugee processing procedures. The law also grants additional protections to refugees by clarifying and strengthening the application appeal process. Finally, the new law removes or lowers some of the financial costs involved with the refugee application process. These changes should help the GOCR reduce the current six-to-eight month wait time for refugee applications, and help address the backlog of over 80 cases awaiting appeal.

ELECTORAL CODE CHANGES

¶11. (SBU) The final major piece of legislation to pass was the Electoral Code Reform law, which primarily focused on campaign finance reform. The law, which was passed on August 11, outlaws campaign contributions by groups or businesses, instead requiring that all donations come from individuals. It also prohibits contributions directly to political candidates, instead requiring that all donations be made to the candidate's political party. This new legislation lays out finite prison sentences for those who violate these new campaign financing regulations.

¶12. (SBU) In a move that favors smaller, regional parties the law opens up public financing of campaigns to municipal elections. However, the law reduces the budget for public financing of campaigns for the 2010 election by over forty percent. Additionally the new law extends current mayoral terms by two years to create a mid-term election in 2012, restricts presidential candidates from also running for seats in the National Assembly, and eliminates a prohibition on alcohol that has traditionally surrounded election day. Finally, the new law lays out plans for the 2014 election, specifically creating the possibility of voting from abroad, and a requirement that political parties have equal numbers

of men and women among their candidates for the National Assembly.

COMMENT

¶13. (SBU) In comparison to its anemic record previously, the work of the National Assembly over the past month and a half has been nothing short of monumental. The new Anti-Organized Crime bill puts in place a legal framework which should help Costa Rica better deal with an ever-growing security situation. The new immigration bill modernizes some immigration procedures and policies, while enhancing the Department of Immigration's ability to deal with foreigners living in the country. And the electoral code changes put in place solid anti-corruption standards in campaigning. A number of these reforms have been languishing for years at the National Assembly, and their passage is definitely a welcome sign.

¶14. (SBU) We, nonetheless, do not expect additional reforms or the lingering 14th CAFTA-DR bill will pass anytime soon, especially with election season kicking into full gear in October. These are probably the last major pieces of legislation that the Assembly will be able to pass until after a new administration is elected in February, 2010. Post will continue to work with our contacts to push the passage of the 14th CAFTA-DR bill before December 31; however, this could prove increasingly difficult if the Assembly stalls amidst political campaigning and disputes, as most observers expect.

BRENNAN